

REMARKS

Claims 1-39 are pending in the application. Claims 1, 22, 28 and 35 are the only independent claims.

The Examiner has allowed claims 22-27 and 35-39. In addition, the Examiner has indicated that claims 1-21 and 28-34 would be allowable if rewritten or amended to overcome the rejection of those claims under 35 U.S.C. § 101.

Specification

The specification has been amended to include reference designations and a brief description of two new drawing figures (see below). Also, a spelling error has been corrected.

The Drawings

The drawings stand objected to under 37 C.F.R. § 1.83(a) as failing to show every feature set forth in the claims. In particular, the Examiner requires that the drawings show the molecular sample support specified in claims 22-27.

In response to the objection to the drawings under 37 C.F.R. § 1.83(a), applicants enclose herewith a sheet of new drawings showing the molecular sample support specified in claims 22-27. No new matter has been added.

Claims Rejections - 35 U.S.C. § 101

Claims 1-21 and 28-34 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner maintains in particular that the invention set forth in those claims does not result in the transformation of an article or physical object nor does the invention provide a practical application that produces a useful, concrete and tangible result.

Applicants respectfully traverse the rejection of claims 1-21 and 28-34 under 35 U.S.C. § 101. Applicants' invention as set forth in those claims is clearly directed to statutory subject matter, namely, the statutory category of a process. The process includes physical steps that manipulate material items and does not come within any proscribed categories such as a mental process. Applicants' invention as set forth in the rejected claims is not directed to, and therefore cannot preempt, an abstract idea, a law of nature, or a natural phenomenon. Moreover, applicants' invention has a beneficial usefulness in the detecting of molecular components.

The Examiner requires that applicants' invention result in the transformation of an article or physical object or provide a practical application that produces a useful, concrete and tangible result. The Examiner purports to find this requirement in the Interim Guidelines for Examination of Patent Applications for Patent Subject matter Eligibility, 1300 OG 142, November 22, 2005. However, the requirement being applied by the Examiner is meant by the Guidelines to be applied where the claimed subject matter does not fall within one of the statutory categories and instead appears to fall within one of the proscribed areas of abstract ideas, laws of nature, and natural phenomena. As indicated above, applicants' invention is a useful statutory process and does not fall within one of the proscribed areas of abstract ideas, laws of nature, and natural phenomena. Ergo, the requirements applied by the Examiner are inapposite in this case.

As stated in the Interim Guidelines of November 22, 2005:

To satisfy section 101 requirements, *the claim must be for a practical application of the Sec. 101 judicial exception*, which can be identified in various ways:

- . The claimed invention "transforms" an article or physical object to a different state or thing.
- . The claimed invention otherwise produces a useful, concrete and tangible result, based on the factors discussed below.

The highlighted portion of this excerpt indicates that one is to apply the listed requirements where a patent claim is *prima facie* directed to proscribed subject matter (abstract idea, law of nature, natural phenomenon). In that case, to satisfy 35 U.S.C. § 101, the claim must cover a practical application that is identified by one or the other of the two listed indicia.

Following the Interim Guidelines, applicants' claimed method falls within an enumerated statutory category (Part IVb) and does not fall within one of the judicial exceptions (Part IVc). It is not necessary to go any farther to determine whether the claimed invention covers either a Sec. 101 judicial exception or a practical application of a Sec. 101 judicial exception (Part IVc(1)) or whether the claimed invention is a practical application of an abstract idea, law of nature, or natural phenomenon Sec. 101 judicial exceptions (Part IVc(2)).

Claims 1-21 and 28-34 describe patentable subject matter under 35 U.S.C. § 101 just as allowed claim 35 describes patentable subject matter.

Conclusion

For the foregoing reasons, claims 1-21 and 28-34 are deemed to be in condition for allowance. An early Notice to that effect is earnestly solicited.

Should the Examiner believe that direct contact with applicant's attorney would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,

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